

Remarks

Applicant appreciates the courtesy of the telephone call granted by the Examiner November 15, 2004.

Claims 1, 3, 5 and 7-10 are pending. Claim 1 has been amended to recite that the sheet-form adhesive preparation contains 1 to 30 wt% of a glycol. Support for this amendment is found in the specification, for example at page 6, line 10 and Example 5. No new matter has been added.

Rejections Under 35 U.S.C. §103

The Examiner maintained the rejection of claims 1, 3, 5 and 7-10 under 35 U.S.C. §103(a) as being unpatentable over JP 57-206614 (hereinafter JP '614) in view of U.S. Patent No. JP 61-260014 (hereinafter JP '014). Applicant has amended the claims and respectfully requests reconsideration of the rejection.

Applicant has amended claim 1 to recite that the glycol content of the claimed sheet-form adhesive preparation is 1-30 wt%. Neither of the cited prior art references disclose such a preparation. The JP '614 patent is totally silent about containing a glycol. The JP '014 patent discloses that a glycol is or can be contained at 39.5-49 wt%. Thus neither of the references, nor their combination, teaches or suggests an amount of glycol as presently claimed. These references also do not provide any motivation to modify the amount of glycol present in the preparation. Therefore, Applicant asserts that the invention as now claimed is not obvious in view of the combination of the JP '614 patent and the JP '014 patent.

Moreover, neither the JP '614 reference nor the JP '014 reference describe the control of the heat quantity required for "water evaporation heat" by adding the specific amount of a glycol, which Applicant's invention demonstrates a greatly improved refreshing feeling and user satisfaction.

The Examiner stated on page 3 of the current Office Action that when the JP '614 and JP '014 references are combined "[t]he expected result is a sheet-form preparation comprising a polyhydric alcohol." Applicant responds that claim 1, as pending, does not recite a polyhydric

alcohol. Claim 1 as now pending only recites the presence of a specific weight percentage of a glycol, in addition to a specific quantity of heat required (0.6 to 13 (cal) per cm²). The combination of JP '614 and JP '014 fails to teach or suggest a sheet-form adhesive patch with these elements, and therefore the combination of JP '614 and JP '014 does not render the claimed invention obvious.

This point was made in the Amendment filed on April 16, 2004, in which Applicant stated the differences between the amended claim and the prior art:

“The claims as now amended thus provide an invention that the combination of the JP '614 and the JP '014 references simply does not describe. Both the JP '614 and the JP '014 references fail to disclose the glycol feature of claim 1 as amended (1 -50wt% of a glycol).”

In view of this argument, which was not addressed by the Examiner in the current Office Action, a final rejection of the claims should not have been made. Accordingly, in the event that the claim amendment and arguments do not result in the allowance of the application, Applicant respectfully asserts that the finality of the current Office Action should be withdrawn.

In responding to Applicant's arguments in the current Office Action, the Examiner stated that there was motivation to combine the JP '614 and JP '014 references. Even if this is the case, the combination of the JP '614 and JP '014 references lacks a teaching of a sheet-form adhesive preparation that has the recited elements of claim 1. It is well-settled law that if a combination of references does not teach or suggest all of the elements of a claimed invention, then the combination cannot render the claim obvious, regardless of the sufficiency of motivation to combine the references.

Regarding the polyhydric alcohol element cited by the Examiner as present in the prior art, the pending claims that recite polyhydric alcohol, claims 9 and 10, do so only in addition to the glycol of claim 1. Therefore, claims 9 and 10 also are not obvious over the combination of the JP '614 and JP '014 references, which does not teach or suggest a sheet-form adhesive with the combination of an amount of glycol and a polyhydric alcohol as now claimed.


Accordingly, in view of the claim amendments and remarks above, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1, 3-5, and 7-10 under 35 U.S.C. § 103 as obvious over JP '614 in view of JP '014.

CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is respectfully requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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